

IN THE UNITED STATES DISTRICT COURT OF FOR THE WESTERN DISTRICT OF  
PENNSYLVANIA

HUNTER KEYSTONE PETERBILT, L.P. a  
Delaware limited partnership,

CIVIL DIVISION

No.

Plaintiff,

v.

TRAILER MOVERS, INC., a New York  
Corporation,

Defendant.

**COMPLAINT**

NOW COMES the Plaintiff, Hunter Keystone Peterbilt, L.P., by and through its counsel, Dickie, McCamey & Chilcote, P.C., and for its Complaint, avers as follows:

**PARTIES**

1. Plaintiff, Hunter Keystone Peterbilt, L.P. ("Hunter"), is a Delaware limited partnership with its principal place of business at 480 Pittsburgh Road, Butler, PA 16002.

2. Defendant, Trailer Movers, Inc. ("Trailer Movers"), is a New York Corporation with its principal place of business at 1164 Rt. 5 & 20, Silver Creek, NY 14136.

**JURISDICTION AND VENUE**

3. This Court has subject matter jurisdiction over this dispute pursuant to 28 U.S.C. § 1332. The parties are of diverse citizenship, and the amount in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs.

4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(2) and (c)(2).

**FACTS**

5. On July 20, 2015, Hunter leased two commercial vehicles to Trailer Movers pursuant to a "Vehicle Lease and Service Agreement" (hereinafter "Lease Agreement"). *See* Vehicle Lease and Service Agreement, attached hereto as Exhibit A.

6. Under the Lease Agreement, Trailer Movers agreed to lease two 2016 Peterbilt 579 trucks from Hunter under the terms as set forth therein at a fixed charge of \$2,898.00 per month per truck for 48 months. *See* July 20, 2015 Schedule A, attached hereto as Exhibit B.

7. Trailer Movers agreed to lease each of these two vehicles for a term of 48 months to commence on the date the vehicles were tendered by Hunter to Trailer Movers and to pay certain additional charges with respect to those vehicles during the term of the lease as set forth in the Agreement.

8. Vehicle No. 520-6501 was tendered by Hunter to Trailer Movers on August 20, 2015.

9. Vehicle No. 520-6502 was tendered by Hunter to Trailer Movers on September 30, 2015.

10. On April 26, 2016, Trailer Movers agreed to lease two additional Peterbilt 579 trucks from Hunter under the terms of the July 20, 2015 lease at a fixed charge of \$3,126.00 per month per truck for 45 months. *See* April 26, 2016 Schedule A, attached hereto as Exhibit C.

11. Vehicle No. 588-016 was tendered by Hunter to Trailer Movers on May 1, 2016.

12. Vehicle No. 588-021 was tendered by Hunter to Trailer Movers on May 1, 2016.

13. Over the course of the lease of the four trucks, Trailer Movers failed to timely pay invoices for charges owed pursuant to the Lease Agreement. *See Exhibit A.*

14. As of December 29, 2016, Trailer Movers was past due on its accounts in the amount of \$40,502.54, and was informed that the trucks were expected to be returned by January 6, 2017. *See December 29, 2016 Correspondence, attached hereto as Exhibit D.*

15. Trailer Movers and Hunter were unable to reach an agreement on a payment plan to bring the lease account current, and Hunter demanded all four units be returned to Hunter.

16. Vehicle No. 588-016 was returned to Hunter in January 2017.

17. Vehicle No. 520-5602 was returned to Hunter in February 2017.

18. Vehicles No. 588-021 and 520-6501 were returned to Hunter in March 2017.

19. Vehicle No. 588-016 was invoiced to Trailer Movers through January 31, 2017, at which time it had a Final Schedule A Value of \$138,523.68.

20. Vehicle No. 520-6502 was invoiced to Trailer Movers through February 28, 2017, at which time it had a Final Schedule A Value of \$133,442.76.

21. Vehicle No. 520-6501 was invoiced to Trailer Movers through March 31, 2017, at which time it had a Final Schedule A Value of \$131,261.91.

22. Vehicle No. 588-021 was invoiced to Trailer Movers through March 31, 2017, at which time it had a Final Schedule A Value of \$138,523.68.

23. As of June 23, 2017 Trailer Movers owes a total of \$103,198.21 in past due invoices for monthly charges under the terms of the Lease Agreement.

24. To date, Trailer Movers has failed to satisfy the outstanding amounts owed to Hunter under the Lease Agreement.

25. Accordingly, Trailer Movers is required to pay Hunter for the current outstanding amounts owed to Hunter under the Lease Agreement as described above, in addition to other charges and amounts due thereunder based upon Trailer Movers' default on the Lease Agreement return of the vehicles in question prior to the expiration of the Lease term and failure to comply with the terms of the Lease Agreement.

26. Hunter has attempted to mitigate its damages and Unit 588-016 was sold on June 9, 2017 for \$92,264.53.

27. Hunter has attempted to mitigate its damages and Unit 588-021 was sold on June 1, 2017 for \$107,500.

28. Hunter has been unable to sell Unit 520-6502 to mitigate its damages.

29. Hunter has been unable to sell Unit 520-6501 to mitigate its damages.

**COUNT I -- BREACH OF CONTRACT**

30. Hunter incorporates by reference Paragraph 1 through, and including, Paragraph 29 of its Complaint, as though set forth herein at length.

31. The Lease Agreement clearly provides that following a default by Trailer Movers, the Lease Agreement is terminated and "all rental payments or other amounts owing shall become immediately due and payable." See Exhibit A, ¶ 15A.

32. Due to the default by Trailer Movers, the past due amounts owed under the Lease Agreement total \$103,198.21.

33. In addition, Trailer Movers was obligated to pay to Hunter under the terms of the Lease Agreement the Schedule A value of the each of the trucks at the time of the

repossession of the vehicles, minus any proceeds from sales of the trucks by Hunter to mitigate its damages.

34. Despite demands from Hunter, Trailer Movers has breached the plain terms of the Lease Agreement by failing to pay the amounts due under the Lease Agreement and to continue its obligations for the full term of the Lease Agreement.

35. The Schedule A Value on the trucks at the time of repossession are as follows:

- a. Vehicle No. 588-016 had a final Schedule A Value of \$138,523.68, but was sold for \$92,264.53, \$46,259.15 less than its Schedule A Value.
- b. Vehicle No. 520-6502 had a final Schedule A Value of \$133,442.76. Hunter has been unable to recover any value from the Schedule A Value to mitigate its damages.
- c. Vehicle No. 520-6501 had a final Schedule A Value of \$131,261.91. Hunter has been unable to recover any value from the Schedule A Value to mitigate its damages.
- d. Vehicle No. 588-021 had a final Schedule A Value of \$138,523.68, but was sold for \$107,500, \$31,023.68 less than its Schedule A Value.

36. Trailer Movers is required to pay to Hunter \$341,987.50 for the net Schedule A Values for breach of the Lease Agreement in addition to the total of \$103,198.21 for past due amounts under the Lease Agreement, for a total of \$445,185.71.

37. The Lease Agreement further provides that Trailer Movers shall be liable for costs and expenses for a default, including reasonable attorneys fees. *See Exhibit A, ¶15.*

WHEREFORE, Plaintiff, Hunter Keystone Peterbilt, L.P., respectfully requests that this Honorable Court enter judgment in its favor, and against the Defendant, Trailer

Movers, Inc., in the amount of \$445,185.71, plus attorney's fees, costs, interest and other relief as this Court deems proper.

**COUNT II -- UNJUST ENRICHMENT**

38. Hunter incorporates by reference Paragraphs 1 through Paragraph 37 of its Complaint, as though set forth herein at length.

39. In using the trucks under the Lease Agreement without paying the amounts due, Trailer Movers has received and enjoyed and continues to receive and enjoy the value of said trucks.

40. It is inequitable for Trailer Movers to retain the benefits of using said trucks without payment to Hunter.

41. Trailer Movers has been unjustly enriched by its use of the trucks, the value of which, is properly owed to Hunter.

42. The past due amounts owed under the Lease Agreement total \$103,198.21, the value of which Trailer Movers used the benefit of without payment to Hunter.

WHEREFORE, Plaintiff, Hunter Keystone Peterbilt, L.P., respectfully requests that this Honorable Court enter judgment in its favor, and against the Defendant, Trailer Movers, Inc., in the amount of \$103,198.21, plus attorney's fees, costs, interest and other relief as this Court deems proper.

**JURY TRIAL DEMANDED**

Respectfully submitted,

DICKIE, McCAMEY & CHILCOTE, P.C.

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